

### **REMARKS**

Applicant appreciates the Examiner's thorough consideration provided the present application. Claims 1-13, 44-47, 49 and 50 are now present in the application. No claims have been amended in this Reply. Claims 1 and 44 are independent. Reconsideration of this application is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §112**

Claims 1-13, 44-47, 49 and 50 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 1-13, 44-47, 49 and 50 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. These rejections are respectfully traversed.

In particular, the Examiner alleged that there is no evidence currently of record that indicates that one of ordinary skill in the art would be aware of the points encompassed by the terms "sympathetic tone-dependent points" and "sympathetic tone-neutral points" as recited in claims 1 and 44. Applicant respectfully disagrees.

Applicant respectfully submit that the specification on page 10, line 11 – page 11, line 12 clearly defines the term "sympathetic tone-dependent points" and "sympathetic tone-neutral points." More specifically, the specification on page 9, lines 1-7 and page 10, line 11 – page 11, line 12 discloses:

*The phrase "sympathetic tone-neutral point" denotes a point on the body in which the sensitivity to an applied stimulation is independent of the activity level of the sympathetic nervous system.*

*The phrase "sympathetic tone-dependent point" denotes a point on the body in which the sensitivity to an applied stimulation is dependent on the activity level of the sympathetic nervous system.*

....

The expressions "C.V. 17", "Per 1" and "St 18" denote meridian points pursuant to conventional Chinese theory (Beijing College of Traditional Chinese Medicine: Essentials of Chinese Acupuncture, Beijing Foreign Languages Press, 1980). C.V. is a conception vessel; Per is the pericardium and St is the stomach. The C.V. 17 point, the grey-shaded area, is shown in FIG. 3, where the most frequently used point according to the present invention within C.V. 17 in the grey-shaded area is indicated by the black dot. The Per 1 point, the grey-shaded area, is shown in FIG. 1, where the most frequently used point according to the present invention within Per 1 in the grey-shaded area is indicated by means of the black dot. The St 18 point, the grey-shaded area, is shown in FIG. 4, where the most frequently used point within St 18, in the grey-shaded area, is indicated by means of the black dot. The described points, C.V. 17, Per 1 and St 18, are well-defined according to their Chinese names and are in form of points on the surface of the body. In FIGS. 1, 3 and 4 grey-shaded areas are provided to mark that an actual area is to be examined and that the point merely is defined by its quality as being the most sore point when stimulated. This also means that the point may be outside the grey-shaded area marked on the drawings. *In reality, the point may be at any position within the portion of the skin corresponding to the nerve supply to the heart of the sympathetic nervous system (as for instance stated in the following references: Rutherford J. D., Braunwald E. & Colin P. F., "Chronic heart disease"; Braunwald E., ed. "Heart Disease. A textbook of Cardiovascular Medicine". Philadelphia: W. B. Saunders Company, 1988; 1314-67; Williams P. L., Warwick R., Dyson M. & Bannister L. H., eds. Gray's Anatomy. New York: Churchill Livingstone, 1989; 723-1168; Mann, F., "Textbook of acupuncture", William Heinemann medical books, London 1987; 57-64).*

*The expressions "TH 3-6" and "TH 10-11" denote the spinous processes 3-6 and the spinous processes 10-11, respectively, on the thoracic vertebrae of the same numbers. The spinous processes are the parts of the spinal column which feel like hard projections. The spinous processes 3-6 and the spinous processes 10-11 are shown in FIG. 2, the spinous processes 3-6 being the uppermost four black dots on the spinal column and the spinous processes 10-11 being the two lowermost dots on the spinal column. (Emphasis added).*

Applicants respectfully submit that, according to M.P.E.P. § 2164.01, "[t]he standard for determining whether the specification meets the enablement requirement was cast in the Supreme Court decision of *Mineral Separation v. Hyde*, 242 U.S. 261, 270 (1916) which postured the question: is the experimentation needed to practice the invention undue or unreasonable?" Since the terms "sympathetic tone-dependent points" and "sympathetic tone-neutral points" as recited in claims 1 and 44 have been clearly disclosed in the specification as

originally filed and discussed in a plurality of references (e.g., the references mentioned in the specification), Applicant respectfully submits that one of ordinary skill in the art would be perfectly aware of the points encompassed by the terms “sympathetic tone-dependent points” and “sympathetic tone-neutral points” as recited in claims 1 and 44, and no undue or unreasonable experimentation would be necessary for one of ordinary skill in the art to determine these points.

In view of the above, it is believed that all pending claims comply with the enablement requirement and are definite and clear. Reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first and second paragraphs, are therefore respectfully requested.

### **CONCLUSION**

All the stated grounds of rejection have been properly traversed and/or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently pending rejections and that they be withdrawn.

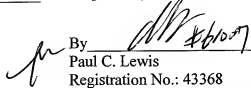
It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

In the event there are any matters remaining in this application, the Examiner is invited to contact Cheng-Kang (Greg) Hsu, Registration No. 61,007 at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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